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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/303,632	05/03/1999	CHERYL B. LEBEAU	D-7102	8616
44885	7590	06/15/2006	EXAMINER	
ARTHUR G. YEAGER, P.A. 245-1 EAST ADAMS STREET JACKSONVILLE, FL 32202-3336			EVANISKO, LESLIE J	
			ART UNIT	PAPER NUMBER
			2854	

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/303,632

Applicant(s)

LEBEAU ET AL.

Examiner

Leslie J. Evanisko

Art Unit

2854

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06/02/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-38, 41 and 42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-37, 41 and 42 is/are rejected.
- 7) ☒ Claim(s) 38 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. It is noted that applicant filed a response on June 2, 2005 that crossed in the mail with the Final Rejection mailed June 3, 2005. In view of the fact that applicant's response was filed before the Final Rejection and the amendment substantially changes the scope of the claims, the last Office Action is hereby withdrawn in its entirety in view of the new non-final Office Action that follows:

Drawings

2. The proposed drawing corrections were received on September 25, 2000 (paper #3). These drawings corrections are approved by the Examiner. Additionally note that the draftsperson objected to the drawings in the PTO-948 attached to paper #2. New formal drawings incorporating the approved changes and correcting the informalities set forth by the draftsperson should be submitted by applicant.

Claim Objections

3. Claims 21-38 and 41-42 are objected to because of the following informalities:

With respect to claim 21, it appears the term "and" was inadvertently left out by applicant in the present amendment after the term "speedy" in the last line of the claim.

With respect to claim 23, line 4, it is suggested that the term "an" be deleted and replaced with --the-- since the upper surface of the keyboard was previously recited in claim 21.

With respect to claim 24, note that this claim is improper in that it recites a structural connection to the keyboard and the claim is drawn to the cover per se and not the combination of a keyboard and cover. Therefore, this language makes the scope of the claim somewhat unclear as to whether applicant is intending to claim the combination of the cover and the keyboard or just the cover per se. Since it appears from the claim language that applicant is intending to claim just the cover alone, it is suggested that the phrase "contact and protects" be deleted and replaced with --is configured to contact and protect-- or similar language.

With respect to claim 25, line 3, it is suggested that the term "an" be deleted and replaced with --the-- and the term "a" be deleted and replaced with --the-- since the upper surface and the keyboard were previously recited in claim 21.

With respect to claim 32, line 2, it is suggested that the language "having a predetermined size in length and width" be deleted since this language is later recited in line 5 and is therefore redundant.

With respect to claim 33, lines 3-4, it is suggested that the language "adapted to be" be deleted since claim 32 has been amended to recite the combination of the keyboard and cover and therefore positive structural connections between the keyboard and cover are acceptable and would be less confusing when determining the scope of the claim language. Note similar changes should be made to the similar language in claims 34 and 36.

With respect to claim 34, it is suggested that the term "an" in line 4 be deleted and replaced with --the-- since the upper surface of the keyboard was previously recited in claim 32.

With respect to claim 41, line 5, it appears the term “an” is a typographical error and should be deleted and replaced with --any--.

Appropriate correction and/or clarification is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 21-31 and 33-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 21, the language “consisting of at least one flat and entirely transparent planar sheet” is unclear in scope since “consisting of” is closed terminology (as discussed in MPEP 2111.03) and “at least one” implies the cover could include more than one sheet, which is contradictory to the closed terminology “consisting of”.

With respect to claims 22-23 and 33-34, the recitation of the adhesive strips appears to be an additional element on the cover and therefore contradicts the closed “consisting of” terminology used in claim 21 (and claim 32), thereby rendering the exact scope of claims 22-23 and 33-34 unclear.

With respect to claim 28-31, again the recitation of more than one sheet in each of claims 28-31 is contradictory to the closed “consisting of” terminology used in claim 21, thereby rendering the exact scope of claims 28-31 unclear.

In an effort to advance prosecution of the application, the Examiner is going to interpret the claims in the following manner with respect to application of any pertinent prior art:

Claims 21, 24-27, 32, 35-38, and 41-42 will be interpreted as being written with closed terminology, however, the “at least one” language in claim 21 will be interpreted as reciting only one sheet.

Claims 22-23, 28-31, and 33-34 will be interpreted as being written in open terminology since each of these claims is adding additional structural elements to the cover member that was recited in the parent claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 21-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Gochanour (US 5,774,889). Gochanour teaches a package 30 of individual transparent covers 10 for protecting the sterility of an object (i.e., a user's hand, objects touched by a user's hand, etc.) having a predetermined size in length and width, each cover consisting of one flat and entirely transparent planar sheet 12 of pliable plastic film 14 of uniform thickness throughout and a predetermined size in length and width (column 4, lines 50-67). Additional attention is invited to Figures 1-3 and 3-6 of Gochanour in particular.

Note the last four lines of the claim are a functional recitation of a desired mode of operation and since the cover of Gochanour is comprised of a pliable plastic material of similar thickness (see column 4, lines 25-67) to that disclosed by applicant, it would be capable of performing the functional recitations as recited.

Note that although Gochanour does not necessarily teach the cover is used for covering a keyboard, note that the claim is drawn to an individual cover per se and not the combination of the cover and keyboard. Therefore, the claim language regarding how the cover is to be used is merely a functional intended use of the cover and has no patentable significance to the claims. Thus, since Gochanour teaches a “cover” including all of the structural limitations as recited and would thereby be capable of being used as a cover for a keyboard of a computer, it meets the claim language as recited.

Furthermore, with respect to claim 21--which, with the amendment to use the closed terminology “consisting of,” appears to thereby exclude any cover including a fastening element such as adhesive, note that Gochanour teaches an embodiment which uses an electrostatic charge to adhere the covering to the object in column 5, lines 43-58.

With respect to claims 22-23, note Gochanour teaches the cover is rectangular (as shown in Figures 1 and 3, including a long top edge portion, a long bottom edge portion, and two short side edge portions, and including strip(s) of adhesive along the periphery of the sheet, as set forth in column 5, lines 31-35. Additionally note the embodiment shown in Figure 4A would inherently include strips of adhesive along the top and bottom edge portions of the sheet.

With respect to claims 24-26, note the cover of Gochanour is capable of being sized such that it could be folded over (and perhaps adhered to itself along the adhesive strips at the peripheral edges) to form an envelope having an upper member adapted to overlies the upper surface and lower member adapted to underlie the bottom surface of an object such that the sheet would function to contact and protect both the upper and bottom surfaces of a keyboard.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 28*-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lafond (US 5,564,829) in view of IBM Technical Disclosure Bulletin, June 1994, Vol. 37, Issue 06B, pages 125-126 (hereafter referred to as IBM). *Note that due to the 112 second paragraph problems mentioned above, claim 28 is being considered as being written in open terminology, which therefore makes claim 28, in essence, broader than claim 21 (which is written in closed terminology). Therefore, until the 112 problems are remedied, claim 28 is being considered by the Examiner to essentially be a separate independent claim drawn to a package of covers, each cover comprising a pair of flat sheets as described in claim 21. Therefore, the following rejection of claims 28-30 is deemed appropriate:

Lafond teaches an individual disposable transparent “cover” B consisting of a pair of identical flat transparent sheets 8 of pliable plastic film, each sheet having an elongated top edge portion, an elongated bottom edge portion, and two short side edge portions, the sheets being fastened together along the bottom edge portion of each sheet so as to envelop a desired object. Note Lafond teaches it is well known in the art to construct the “cover” (i.e., sterile plastic bag B) from two sheets 8 being fastened together by closing the lower end by heat sealing and the side edges being closed by either heat sealing or being integrally formed in column 1, lines 35-43. Note that although Lafond refers to the material for the cover as “heavy gauge polyethylene” in column 3, line 49, it is the Examiner’s position that the term “heavy gauge” is a relative term and furthermore, the material of Lafond is clearly pliable to some extent, since the bag is for use in a medical blender to blend samples as described in column 4, lines 35-63. Furthermore, although Lafond does not necessarily teach the cover is used for covering a keyboard, note that the claim is drawn to the cover structure per se and not the combination of the cover and keyboard. Therefore, the claim language regarding how the cover is used is merely the intended use of the cover and has no patentable significance to the claims. Thus, since the “cover” of Lafond includes all of the structural limitations as recited, it is broadly capable of being used to cover a keyboard and meets the functional intended use recitations in the claims.

Although Lafond does not specifically teach the individual disposable covers are contained in a package, the IBM reference teaches the provision of a package of individual disposable covers is well known in the art, as exemplified by the fourth paragraph of page 126. In view of these teachings, it would have been obvious to one of

ordinary skill in the art to provide a plurality of the disposable covers of Lafond to be provided in a package as taught by IBM to better facilitate discarding and replacing the “covers” as they become soiled or damaged.

With respect to claim 29, note Lafond teaches it is well known in the art to form the cover B by having two identical transparent sheets 8 fastened together along the bottom edge 14 by heat sealing and at the side edges 12 by either heat sealing or integrally forming the side edges in column 1, lines 35-43 and column 4, lines 8-15.

With respect to claim 30, note that to the extent that applicant has clearly defined the various edges, the “cover” B of Lafond can be considered to include two sheets 8 having elongated top and bottom edge portions 12 fastened together with at least one of the short side edge portions open (at 22).

10. Claims 32 and 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yanagisawa (US 5,872,527) in view of Adair (US 5,812,188). Yanagisawa teaches a keyboard and an individual disposable transparent cover **34, 34'** consisting of a flat and entirely transparent planar sheet of pliable film of uniform thickness and a predetermined size in length and width for covering a keyboard as recited. See Figures 9-10 and column 11, lines 21-67 in particular. Note that although Yanagisawa does not specifically state that the cover is a plastic film as recited, note that Adair teaches the use of flexible transparent materials such as polyurethane, polyolefins, and laminated plastic films for a covering for a keyboard in a sterile environment is well known in the art. See Figures 1 and 5 and column 5, lines 2-16 and column 6, lines 38-55. In view of this teaching, it would have been obvious to one of ordinary skill in the art to use a

plastic film as taught by Adair for the flexible transparent film of cover of Yanagisawa as it would require simply the obvious selection of a known material based upon its known properties. Additionally, with respect to the newly presented closed “consisting of” terminology in the claims, note the elastic fixing part 34a of Yanagisawa is considered to be a separate element attached to the cover member 34, 34’ and not part of the cover member per se.

With respect to claim 35, note Yanagisawa teaches the cover may comprise an enclosure for enclosing the entire keyboard body in column 11, lines 36-37.

With respect to claim 36, note that Adair teaches the use of a cover member which comprises an upper member overlying the upper surface of a keyboard and a lower member underlying a bottom surface of a keyboard to completely enclose both the upper and bottom surfaces of a keyboard. Again, note Figure 5 in particular. In view of this teaching, it would have been obvious to one of ordinary skill in the art to provide the cover member of Yanagisawa to be of such a size and configuration as to provide an upper and lower member as taught by Adair to provide the cover of Yanagisawa to completely enclose the keyboard as desired to better ensure the sterility of the keyboard.

With respect to claim 37, note Adair teaches a sheet formed as an envelope with an elongated opening along a top edge portion as broadly recited. Again, it would have been obvious to one of ordinary skill in the art to provide the cover member of Yanagisawa to be of such a size and configuration so as to provide a keyboard enclosure similar to that shown in Adair to provide a flexible transparent cover for use in a sterile environment with an opening for allowing insertion of the keyboard inside the enclosure.

11. Claims 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yanagisawa (US 5,872,527) in view of Adair as applied to claims 32 and 35-37 above, and further in view of either of Okamura (US 5,089,690) or Young (GB 2 201 922 A). Yanagisawa in view of Adair teach a transparent cover as recited with the exception of the sheet including strips of adhesive along either or both of a top edge and bottom edge of the sheet. Note that Yanagisawa does teach attachment means 34a attached to the cover member for removably attaching the cover to the underlying keyboard in column 11, lines 24-29 and 34-36. Although the attachment means of Yanagisawa is not adhesive strips, note that the use of adhesive strips to attach a keyboard cover to a keyboard is well known in the art as exemplified by the teachings of both Okamura and Young. See Figure 2 and column 3, lines 1-16 of Okamura and Figures 1B-1C and claims 1-2 of Young in particular. In view of these teachings, it would have been obvious to one of ordinary skill in the art to use adhesive strips as taught by each of Young and Okamura in the transparent cover of Yanagisawa, as it would require simply the obvious substitution of one known fastening means for another to provide secure attachment of the removable cover to the underlying keyboard.

12. Claims 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yanagisawa (US 5,872,527) in view of Lafond (US 5,564,829). Yanagisawa teaches a keyboard 21 and disposable transparent cover 34, 34' individually formed and having a predetermined size to enclose the keyboard (i.e., cover both the upper and bottom surface of the keyboard) for protecting the sterility of the keyboard and inhibiting any

unintentional contact between the keyboard and fingers of a user while not impeding an operator's ability to manipulate the keyboard in an accurate and speedy manner, as described in column 11, lines 21-66. Although Yanagisawa is silent with respect to whether particular structural details of the cover and whether it includes two identical flat plastic sheets fastened together along the various edges as recited, note that a sterile cover member for enclosing an object consisting of two identical flat and entirely transparent sheets of pliable plastic film fastened together along three edges is well known in the art, as exemplified by Lafond in Figures 1-2 and column 1, lines 37-43 and column 4, lines 8-14. In view of this teaching, it would have been obvious to one of ordinary skill in the art to provide a cover consisting of two identical flat sheets fastened together along three edges as taught by Lafond for the transparent disposable cover enclosing the keyboard of Yanagisawa to provide a simple and easy-to-manufacture improved sterile cover member to better protect the sterility of the keyboard by enclosing the keyboard to cover both the upper and bottom surfaces of the keyboard.

Allowable Subject Matter

13. Claims 27 and 31 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

14. Claim 38 is objected to for the reason set forth above as well as for being dependent upon a rejected base claim, but would be allowable if rewritten to overcome

the above objections to the satisfaction of the Examiner and in independent form including all of the limitations of the base claim and any intervening claims.

15. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record fails to teach or fairly suggest a keyboard cover (or package of covers) including all of the structure as recited, in combination with and particularly including, the at least one flat and transparent sheet of pliable plastic film of uniform thickness and a predetermined size in length and width is formed as an envelope with an elongated opening adjacent one corner and extending along one side edge portion and generally to a midpoint along a top edge portion.

Response to Arguments

16. Applicant's arguments with respect to claims 21-37 and 41-42 have been considered but are moot in view of the new ground(s) of rejection.

Again, with respect to claim 32, note the elastic fixing part is not considered to be a part of the cover per se, but an element that is attached to the cover and therefore, it is the Examiner's position that Yanagisawa in view of Adair renders obvious the keyboard and cover as specifically recited.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lansing et al. (US 5,302,124) and Hoshowski (US 6,526,963 B2)

each teach flexible transparent plastic covering for an object while allowing a user to operate the object being covered. Sato (JP 2003-208830 A), Paul (GB 2 393 146 A), Costello (US 6,962,454 B1), and Pihlaja (US 2003/0223799 A1) each teach a keyboard cover having obvious similarities to the claimed subject matter.

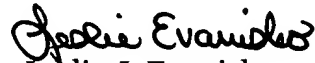
18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Leslie J. Evanisko** whose telephone number is **(571) 272-2161**. The examiner can normally be reached on Tuesday-Friday between the hours of 8:00 am and 6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew H. Hirshfeld can be reached on (571) 272-2168. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Leslie J. Evanisko
Primary Examiner
Art Unit 2854

lje
June 11, 2006